IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 56 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME-TAX

Versus

AIR CONTROL & CHEMICAL ENGG. CO. LTD.

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Appearance:

1. INCOME TAX REFERENCE No. 56 of 1988

MR AKIL QURESHI for MR MANISH R BHATT for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

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CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 20/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for the opinion of this Court in respect of assessment years 1979-80 and 1980-81:-

"Whether the Tribunal is right in holding that the house rent allowance paid to an employee is not perquisite for the purpose of sec. 40 A (5)?"

2. We have heard Mr. Akil Qureshi learned counsel for the revenue. Though served, none appears for the respondent-assessee.

3. The learned counsel for the revenue fairly points out that the controversy raised herein is concluded in favour of the assessee by the decision of the Supreme Court in CIT vs. Mafatlal Gangabhai 219 ITR 644.

We accordingly answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

4. The Reference accordingly stands disposed of with no order as to costs.

(M.S. Shah,J)

(D.A. Mehta,J)

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